

A public hearing was held by the Town Board of the Town of Ballston on Tuesday evening, April 30, 2013 at 7:00 p.m. at the Town Hall on Charlton Road, Ballston Spa.

PRESENT:	Patricia Southworth	-----	Supervisor
	Mary Beth Hynes	-----	Councilwoman
	Timothy Szczepaniak	-----	Councilman
	William Goslin	-----	Councilman
	Kelly Stewart	-----	Councilwoman
	Carol Shemo	-----	Clerk
ABSENT:	Murry Brower	-----	Counsel

Supervisor Southworth opened the public hearing at 7:00 p.m.

The Town Clerk read the legal ad for the public hearing.

The purpose of the public hearing was to consider the adoption of proposed changes to the Zoning Law of the Town of Ballston on April 30, 2013 at 7:00 p.m. at the Town Hall 323 Charlton Road, Ballston Spa, New York regarding the adoption of proposed changes to the Zoning Law of the Town of Ballston which changes the Industrial District Regulations at §138-13 by making the regulation define the allowed use within the district to be Light Industrial. The following sections are amended to reflect a change in allowable use §§138-13, 138-13.1, 138-13.1.1, 138-13.1.2, 138-14, 138-15(e), 138-17, 138-18(C), 138-21 (A), (B) and the use tables at the end of the zoning regulations for what will become the Light Industrial District.

PLEASE TAKE FURTHER NOTICE that the environmental significance of said proposal local law will be reviewed by the Town Board of the Town of Ballston incident to and as a part of said public hearing. Copies of said proposed amendments to the Industrial District Zoning Regulations are available for review at the Town Clerk's office, 323 Charlton Road, Ballston Spa, NY 12020 during regular business hours and on the Town website, townofballstonny.org.

By order of the Town Board of the Town of Ballston, dated March 26, 2013.

Mr. Hal Schulze stated that there are standards for industrial use and these standards address his concerns for the odors and noise levels that come with heavy industrial use. He is also concerned with their effect on property values and tax bases.

Donald Zee, Esq., attorney for the Curtis Lumber Industrial Park, stated that Curtis Industrial Park represents one-third of all the industrial acreage in the Town. The businesses in the Curtis Industrial Park employ 1,000 employees that make up 20% of all workers in the Town of Ballston. The Town of Ballston Comprehensive Plan presents guidelines to the Town's zoning. The Comprehensive Plan states it promotes commercial growth in specific centers and provides a business friendly environment that is supportive of local and regional businesses and helps assure the provision of quality employment and a diverse economic base in the community. In addition, the Comprehensive Plan notes the existing industrial uses are placed well back from the roadway corridor and provide some natural buffering for those traveling past. There appears to be the opportunity to further develop the current industrial zone and add to the Town's tax base; the Curtis Industrial Park was used as an example of an area for the expansion of industrial growth. The DGEIS also did not evaluate nor consider changes to regulations in the Industrial Districts. Mr. Zee stated that Chapter 138 Article XII of the Town Code on Zoning, lists the restrictions in industrial uses. He stated that neighboring communities do have industrial uses. Mr. Zee asked for an opportunity to workshop this legislation with the Town Board, clients, tenants, employees and potential clients.

Mr. Jim Roberts, spokesperson for Lane Enterprises Inc., read a letter from Doug Graham, Vice President and Facility Superintendent and Annette Bliss, Vice President and Area Manager, stating they are opposed to the proposed zoning change and urges the Town Board of the Town of Ballston to dismiss this request. They stated in their letter that Lane Enterprises Inc. opened their Ballston facility more the 40 years ago. They employ more than 30 local full time people in full time positions during the construction season and slightly less in the winter months. This business involves the manufacture and distribution of drainage and construction products. Since their product line is always evolving, changes in zoning could impact their land, facility use and potential growth. If the zoning were changed, Lane Enterprises would likely be deemed a "non-conforming existing use" and impact future business opportunities. In recent years, developments were constructed adjacent to the approved industrial zone. It is not in the Town of Ballston's best interest to put restrictions on the residents that help build the community due to these developments.

Ms. Pierce, resident of the Town of Ballston, said she is aware of the need for the Town to revisit the Comprehensive Plan. It should be updated every 7 years and it was completed in 2005. She stated it is impossible for the Town Code to keep pace with the industrial and technological changes and developments. The Town needs to change the Curtis Industrial Park to light industrial. She gave the example of the events in West, Texas with the explosion of the fertilizer company, to show the need for zoning regulations and oversight. We cannot assume industries will self-regulate and there is no federal agency to determine the closeness of a facility handling potential dangerous substances can be to populated areas. This zoning change will bring closer oversight and awareness with the need for heavy industry to seek a variance. The Town of Ballston needs to change this heavy industrial zoning to light industrial in order to allow the boards to do their jobs and protect the health and safety of the residents and the environment.

Mr. Pierce spoke as a concerned resident of the community. In 2001 the Capital District Regional Planning Commission commented in their report about the industrial area along Route 67. The two Industrial Parks continue to see new and different industries that create different threats to the water quality. In its Industrial Zoning, the Town of Ballston states that the water quality be given highest priority. We need to review our safety measures to protect our water quality. The boundaries of the wetland need to be respected. The Lake has been affected by acid rain and the increased amount of phosphorous. Zoning carries the strong statements about limiting the adverse environmental effects of industry. The Town should be vigilant in reviewing the plans for safety measures for the tenants in the Industrial Parks

Stephanie Ferradino Esq., attorney for Couch White on behalf of Dolomite Products Inc., has a pending application before the Planning Board and the Zoning Board of the Town of Ballston for an asphalt plant at the Curtis Industrial Park. She presented the Town Board with a Position Statement providing the objections to the proposed legislation which seeks to change the permissible uses in the Industrial Zone. She stated there is a fatal defect on the proposed amendment that is the failure of notice, Town Law §264. Town Law requires the notification of municipalities when changes affect land within 500' of the Town's border. The Town of Malta should have been notified since it borders the Town of Ballston on the East on East Line Road. The Town of Malta was not notified of the zoning change. The failure to notice makes the zoning amendment void. The Town will need to re-notice the public hearing and the proper parties need to be notified concerning this public hearing. The Town failed to: conduct a SEQRA review, comply with the Comprehensive Plan, provide an exception for Dolomite Products Inc., address additional procedural defects and include adult uses. If the Town votes on the proposed zoning change, they should include a friendly amendment to modify the amendment to include all pending applications. She noted in her position statement the Town Board would need a supermajority to vote in favor of the application for it to pass. Also, Ms. Ferradino questioned whether the proposed zoning change was spot zoning. She asked the Board to review the issues raised at the Public Hearing and exercise a thoughtful approach to the modification of the Industrial Zone.

Andy Brick Esq., attorney representing the Curtis Industrial Park LLC., filed with the Town Clerk a Protest Petition pursuant to NYS Town Law §265 Against Adoption and Enactment of the Town of Ballston Proposed Legislation "Regarding Changing the Ballston Town Code Section 138 Heavy Industrial to Light Industrial" and Power of Attorney for the Curtis Lumber Property. Under this proposed legislation, it would stop expansion since a special use permit would be needed to expand. The special use permit would need to show that it is in harmony with the adjacent district. This change in zoning would restrict and remove potential tenants. Mr. Brick stated that with this zoning change, the size of the product would determine whether the business was heavy industrial. Heavy Industrial will be defined by a product greater than 2 cu. ft. in volume. He asked the Town Board to hold off on taking action and workshop Light Industry vs. Heavy Industry.

Mr. Zeh, an employee of Dolomite Product Co., stated that the minutes of the Town Board Meeting of March and May of 2013, show statements of Town Board members that they were not including pending applications in the change of zoning legislation from heavy to light industrial. Despite these statements, they did not provide for a legislative exception for Dolomite in the Curtis Industrial Park in this proposed zoning change. The application was filed two years ago and it is before the Planning Board for review. The Town Board's action with this revised legislation usurps the Planning Board's job. This zoning change is not consistent with the Town's Comprehensive Plan that states business growth supports the Town's needs.

Mr. Voehringer, a Town of Ballston resident, said to approve changes in the Industrial Zone is one of the worst disasters the Town has ever had. It appears to be a political affront to get votes. The majority of the people of the Town do not want these regulations. Mr. Voehringer added that this is a separate issue from the Ballston Lake Improvement Association desire to have changes there. He urged the Town Board to vote down this zoning change and asked them not to over-regulate, since there is too much control over our lives.

Mr. Burgner, a Town resident, said there are major changes in the Town since the Comprehensive Plan was created in 2005. We are in a post Global Foundries environment. Traffic has been our biggest concern in addressing these issues.

Mr. Hufford, a Town resident, stated that it is time for zoning change. We do not want a negative impact on our community and we want a good life for our children. Although the majority of the people at this hearing support the zoning change, the Town Board has had to listen to threats of litigation if this legislation is passed. This is a great community and the Town Board should make the right decision.

No one else wished to speak the Public Hearing was closed at 7:55 p.m.

Respectfully submitted,

Carol R. Shemo
Town Clerk